

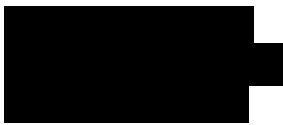


STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
Albany, NY 12211

Notice of Decision

Decision Date: December 21, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004368



Dear [REDACTED],

On November, 12, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's July 19, 2015 eligibility redetermination.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of NY State of Health.

If you have questions about your Decision, you can contact us by:

- Calling the Customer Service Center at 1-855-355-5777
- Sending Mail to:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- Sending a Fax to 1-855-900-5557

When contacting NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification Number at the top of this notice.

Legal Authority

We are sending you this notice in accordance with federal regulation 45 CFR § 155.545(b).

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY – Spanish: 1-877-662-4886).

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Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did the Marketplace properly determine that you were no longer eligible to enroll in a qualified health plan, effective July 31, 2015, and were disenrolled from your qualified health plan as of that date?

Procedural History

On November 28, 2014, the Marketplace issued a notice of eligibility determination regarding your eligibility for health insurance in 2015. That notice stated you were conditionally eligible to receive advance premium tax credits (APTC) and cost sharing reductions, effective January 1, 2015. The notice requested that you provide documentation confirming your citizenship status before February 18, 2015.

On December 11, 2014, the Marketplace issued an enrollment notice confirming your selection of a silver-level qualified health plan (QHP), with a monthly premium responsibility of \$240.16. It stated that your coverage could start after you made your first monthly premium payment and could start as early as January 1, 2015.

On March 7, 2015, the Marketplace issued a notice of eligibility redetermination based on updated information it had recently received, which notice stated you were conditionally eligible to receive APTC and cost sharing reductions, effective April 1, 2015. The notice further requested that you provide documentation confirming your citizenship status before June 4, 2015.

As of June 4, 2015, your Marketplace application had not been updated.

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On July 19, 2015, the Marketplace issued a notice of eligibility redetermination that you were not eligible for Medicaid, Child Health Plus, or to receive APTC or cost sharing reductions, and could not enroll in a qualified health plan at full cost because you did not provide citizenship documentation within the timeframe allotted. The notice further stated that your eligibility ended effective July 31, 2015.

That same day, the Marketplace issued a disenrollment notice that your coverage in your silver-level QHP would end effective July 31, 2015.

On August 18, 2015, you spoke with the Marketplace's Account Review Unit and requested an appeal insofar as you were no longer being eligible for financial assistance and were being disenrolled from your silver-level QHP, effective July 31, 2015.

On August 20, 2015, you uploaded to your Marketplace account a copy of your naturalization certificate (Appellant's Exhibit A).

On August 26, 2015 and again on September 20, 2015, the Marketplace issued a notice of eligibility redetermination that you were eligible to receive APTC and cost sharing reductions, effective October 1, 2015.

On September 20, 2015, the Marketplace issued an enrollment notice confirming that you were enrolled in a silver-level QHP, with coverage that could start as early as September 1, 2015, provided you paid your first month's premium on time.

On November 12, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and closed at the end of the hearing.

Findings of Fact

A review of the record support the following findings of fact:

- 1) You testified that you had health insurance coverage through the Marketplace in 2014 without any conditions.
- 2) You testified that you did not receive any notice from the Marketplace telling you that you needed to submit documentation in order to confirm your citizenship status.
- 3) Your Marketplace account indicates that you elected to receive notifications via electronic mail.
- 4) There is no evidence in the record that the Marketplace received your citizenship documentation before June 4, 2015.

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- 5) You testified that you had a doctor's appointment in August 2015, and learned at that appointment that you did not have health insurance, which prompted you to contact the Marketplace and found out you needed to submit documentation to prove your citizenship status.
- 6) You testified that you had paid your August 2015 premium, which was later returned to you in September 2015.
- 7) You submitted a copy of your Certificate of Naturalization to the Marketplace on August 18, 2015, which indicated you were admitted as a citizen of the United States of America on June 15, 2007 (Appellant's Exhibit A). This document was uploaded to your Marketplace account on August 20, 2015.
- 8) You are seeking reinstatement of your health insurance coverage from October 1, 2015 to December 31, 2015.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

Applicable Law and Regulations

Citizenship and Immigration Status

To enroll in a qualified health plan through the Marketplace, an applicant must be a citizen or national of the United States, or a non-citizen lawfully present in the United States and reasonably expects to become a citizen or remain a lawfully present noncitizen for the entire period for which enrollment is being sought (45 CFR § 155.305(a)(1)).

The Marketplace must verify or obtain information in order to determine that an applicant is eligible for enrollment in a qualified health plan, including the certification of citizenship, status as a national, or lawful presence (45 CFR § 155.315(a), (c)).

If an applicant attests to citizenship, status as a national, or lawful presence, and the Marketplace is unable to verify such attestation, the Marketplace must provide the applicant 90 days to provide satisfactory documentary evidence, from the date the notice of inconsistency is received by the applicant. Notice is considered received 5 days after the date on the notice, unless the applicant demonstrates that he or she did not receive the notice within the 5 day period. (45 CFR § 155.315(c)(3)).

Electronic Notices

Applicants may choose to receive notices and information from the Marketplace by either electronic or regular mail. If the applicant elects to receive electronic notices, the

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Marketplace must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant's account (45 CFR §155.230(d); 42 CFR §435.918(b)(4)).

Legal Analysis

The issue under review is whether the Marketplace properly determined that you were no longer eligible to enroll in a qualified health plan through the Marketplace, effective July 31, 2015.

The Marketplace is required to determine whether individuals are eligible to enroll in coverage through the Marketplace, and must confirm, among other things, that their citizenship status is satisfactory.

If the Marketplace cannot verify an individual's citizenship status, it must provide the individual a period of 90 days from the date notice is received to resolve the inconsistency. For purposes of verifying citizenship, notice is considered received 5 days after the date on the notice.

In the eligibility determinations issued on November 28, 2014 and March 7, 2015, you were advised that your eligibility was only conditional and that, according to the March 7, 2015 notice, you needed to confirm your citizenship status before June 4, 2015.

The record reflects that the Marketplace did not receive the requested citizenship documentation before the deadline.

You testified and the record reflects that you elected to receive your notices from the Marketplace via electronic mail.

Since you elected to receive communications from the Marketplace electronically, the Marketplace was required to post notices to your electronic account within one business day of notice generation. It was also required to send an e-mail or other electronic communication alerting you that a notice had been posted to your account.

The November 28, 2014, March 7, 2015, and July 19, 2015 eligibility determination notices were posted to your account, but the record contains no evidence the Marketplace sent the required e-mails to tell you that those notices were available in your account. The record also does not indicate whether, if the electronic notices were not delivered, paper notices were sent by regular mail within three business days of the date of a failed electronic communication.

You testified you did not receive e-mails telling you that the notices were available in your Marketplace account and that your health coverage was being discontinued.

Lacking evidence to the contrary, we must conclude that you did not receive notice regarding the need for additional information to confirm your eligibility through the Marketplace.

Since you did not receive proper notice that there was an inconsistency in your Marketplace account, the July 19, 2015 eligibility determination is RESCINDED.

On August 18, 2015, after you became aware of the inconsistency in your account, you provided a copy of your Certificate of Naturalization to the Marketplace.

Ordinarily, your case would be RETURNED to the Marketplace to verify your documentation and redetermine your eligibility for health insurance; however, it has already done so. For coverage to have taken effect as of October 1, 2015, you would have had to pay your monthly premium on time, as well as for November and December 2015.

We note, however, that your health insurance was through Health Republic of New York, Inc., which insurer ceased doing business as of November 2015. For this reason, you are being granted a special enrollment period to select another silver-level QHP for the month of December 2015, if you so choose.

Decision

The July 19, 2015 eligibility determination notice is RESCINDED.

Subsequently, the Marketplace has verified your citizenship documentation and redetermine your eligibility for health insurance, effective October 1, 2015.

Therefore, the August 26, 2015 and September 20, 2015 eligibility redetermination notices are AFFIRMED.

Effective Date of this Decision: December 21, 2015

How this Decision Affects Your Eligibility

Ordinarily, your case would be RETURNED to the Marketplace to verify your documentation and redetermine your eligibility for health insurance; however, it has already done so. For coverage to have taken effect as of October 1, 2015, you would have had to pay your monthly premium on time, as well as for November and December 2015.

You are eligible for APTC and cost sharing reductions, effective October 1, 2015, in your silver-level QHP.

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However, your health insurance was through Health Republic of New York, Inc., which insurance company ceased doing business in New York as of November 2015. For this reason, you are being granted a special enrollment period to select another silver-level QHP for the month of December 2015, if you so choose.

If You Disagree with this Decision (Appeal Rights)

This Decision is final unless you submit an appeal request to U.S. Department of Health and Human Services or bring a lawsuit under New York Civil Practice Law and Rules, Article 78.

You may bring a lawsuit on any Appeals Unit decision in New York State court in accordance with Article 78 of the New York Civil Practice Law and Rules. This must be done within four months after the date of the Decision Date, which appears on the first page of this Decision.

Additionally, Appeals Unit decisions on issues involving eligibility for qualified health plans, advance premium tax credits, and cost-sharing reductions may be appealed to the U.S. Department of Health and Human Services. This must be done within 30 days of the date of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c)).

If you wish to be represented by an attorney in bringing an outside appeal and do not know how to go about getting one, you may contact legal resources available to you. You may, for example, contact the local County Bar Association, Legal Aid, or Legal Services.

If You Have Questions about this Decision (Customer Service Resources):

You can contact us in any of the following ways:

- By calling the Customer Service Center at 1-855-355-5777
- By mail at:
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- By fax: 1-855-900-5557

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Summary

The July 19, 2015 eligibility determination notice is RESCINDED.

Subsequently, the Marketplace has verified your citizenship documentation and redetermine your eligibility for health insurance, effective October 1, 2015.

Therefore, the August 26, 2015 and September 20, 2015 eligibility redetermination notices are AFFIRMED.

Ordinarily, your case would be RETURNED to the Marketplace to verify your documentation and redetermine your eligibility for health insurance; however, it has already done so. For coverage to have taken effect as of October 1, 2015, you would have had to pay your monthly premium on time, as well as for November and December 2015.

You are eligible for APTC and cost sharing reductions, effective October 1, 2015, in your silver-level QHP.

However, your health insurance was through Health Republic of New York, Inc., which insurance company ceased doing business in New York as of November 2015. For this reason, you are being granted a special enrollment period to select another silver-level QHP for the month of December 2015, if you so choose.

Legal Authority

We are sending you this notice in accordance with federal regulation 45 CFR § 155.545(a).

A Copy of this Decision Has Been Provided To:

